

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

SAMUEL HILL,

Defendant-Appellant.

UNPUBLISHED

July 24, 2014

No. 314763

Wayne Circuit Court

LC No. 12-008773-FH

Before: JANSEN, P.J., and SAAD and DONOFRIO, JJ.

PER CURIAM.

Defendant was convicted, following a bench trial, of first-degree home invasion, MCL 750.110a(2), and domestic violence, MCL 750.81(2). He was sentenced to 12 to 30 years' imprisonment for the first-degree home invasion conviction, and time served for the domestic violence conviction. He appeals as of right. We affirm.

Defendant argues that insufficient evidence existed upon which to convict him of first-degree home invasion and domestic violence. Specifically, defendant contends that the prosecution failed to prove beyond a reasonable doubt that he entered Darlese Arnold's home with the intent to assault her. Further, defendant argues that no assault actually took place. Defendant argues that even if the evidence demonstrated that he forced his way into Arnold's home, there was no evidence to suggest that he intended to assault her inside. Rather, defendant argues, it was clear from the evidence that he merely intended to retrieve his possessions from inside the home. We disagree.

We review the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could have found that the essential elements of the crime were proved beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748, amended 441 Mich 1201 (1992).

MCL 750.110a(2) defines the offense of first-degree home invasion:

A person who breaks and enters a dwelling with intent to commit a felony, larceny, or assault in the dwelling, a person who enters a dwelling without permission with intent to commit a felony, larceny, or assault in the dwelling, or a person who breaks and enters a dwelling without permission and, at any time while he or she is entering, present in, or exiting the dwelling, commits a felony,

larceny, or assault is guilty of home invasion in the first degree if at any time while the person is entering, present in, or exiting the dwelling either of the following circumstances exists:

(a) The person is armed with a dangerous weapon.

(b) Another person is lawfully present in the dwelling.

MCL 750.81(2) defines the offense of domestic violence:

[A]n individual who assaults or assaults and batters his or her spouse or former spouse, an individual with whom he or she has or has had a dating relationship, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household, is guilty of a misdemeanor.

Accordingly, as relevant to this particular case, both the first-degree home invasion statute and the domestic violence statute required proof that defendant committed an assault as part of the offense. Though “assault” is not defined in MCL 750.110a or MCL 750.81, this Court has employed Michigan’s general definition of assault in the context of first-degree home invasion and domestic violence. *People v Meissner*, 294 Mich App 438, 453-454; 812 NW2d 37 (2011). Assault is generally defined as “ ‘either an attempt to commit a battery or an unlawful act that places another in reasonable apprehension of receiving an immediate battery.’ ” *Id.*, quoting *People v Starks*, 473 Mich 227, 234; 701 NW2d 136 (2005). Further, battery is generally defined as “ ‘an intentional, unconsented and harmful or offensive touching of the person of another[.]’ ” *Id.* at 454, quoting *People v Reeves*, 458 Mich 236, 240 n 4; 580 NW2d 433 (1998). A defendant’s intent “may be inferred from all the facts and circumstances.” *People v Cameron*, 291 Mich App 599, 615; 806 NW2d 371 (2011). Specifically, “[b]ecause of the inherent difficulty of proving a defendant’s state of mind, only minimal circumstantial evidence from which intent may be inferred need be presented.” *Id.*

The only element challenged by defendant regarding his convictions is the requirement that he intended to commit an assault on Arnold, and then actually committed an assault on her, when he kicked in her front door. Based on the evidence presented at trial, Arnold was placed in reasonable apprehension of an immediate battery when defendant forced his way into her home. Arnold stated that several hours before defendant arrived at her home, he stated that he did not care about the personal protection order (PPO) against him, and he told her that the PPO would only get her hurt. Defendant then arrived at Arnold’s home late at night and demanded entry. After Arnold refused to open the door, defendant kicked it in and forced his entry into the house. Based on those circumstances, defendant’s actions constituted an unlawful act that placed Arnold in reasonable apprehension of a battery. Defendant violated a PPO and forced his way into Arnold’s home in the middle of the night; any reasonable person would be placed in apprehension of an immediate battery in that scenario, especially considering the evidence on the record that Arnold’s arm was broken in a previous altercation with defendant. Defendant also argues that he lacked the intent to commit an assault; however, defendant clearly intended to kick in Arnold’s door in the middle of the night, in violation of a PPO. Under these circumstances, defendant’s actions clearly demonstrated an assault, and his intent to commit that assault.

Defendant did present a substantially different account of the incident; however, his version lacks credibility when viewed in the light most favorable to the prosecution. The responding police officer discovered that Arnold's door was damaged, consistent with having been kicked in. Further, the letters that defendant wrote to Arnold from jail cast further doubt on his account. He repeatedly threatened Arnold in an attempt to prevent her from testifying against him. Even if defendant went to Arnold's house with the primary objective of retrieving his possessions, his unlawful forced entry into her home constituted an assault. As noted, taking the evidence in the light most favorable to the prosecution, defendant was aware of the PPO, yet he chose to force his way into Arnold's home after threatening her with harm; he was also aware that his actions would cause Arnold to fear an immediate battery. Defendant's actions did, in fact, cause Arnold to become afraid that defendant would harm her once he entered the house. There was sufficient evidence to prove that defendant intended to assault, and did assault, Arnold when he forced his way into her home.

Affirmed.

/s/ Kathleen Jansen
/s/ Henry William Saad
/s/ Pat M. Donofrio